

Deposits of Excise Tax

Announcement 2000-5

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document invites comments from the public on issues that the IRS may address in proposed regulations relating to the requirements for excise tax returns and deposits. All materials submitted will be available for public inspection and copying.

DATES: Written and electronic comments must be submitted by April 6, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-103827-99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-103827-99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may send submissions electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or directly to the IRS Internet site at http://www.irs.ustreas.gov/tax_regs/regslit.html.

FOR FURTHER INFORMATION CONTACT: Concerning submissions, the Regulations Unit, (202) 622-7180; concerning the proposals, Susan Athy, (202) 622-3130 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

The Excise Tax Procedural Regulations (26 CFR part 40) set forth the requirements related to filing the Quarterly Federal Excise Tax Return, Form 720, and making deposits of excise taxes. Certain provisions of the current regulations are complicated. The IRS is interested in simplifying the filing and deposit rules both as to the timing and the calculation of the correct amount to deposit. Simplification would reduce recordkeeping burdens and costs for taxpayers, improve compliance, and facilitate proper administration of the excise taxes and trust funds. The IRS requests comments on how the regulations can be simplified; comments are requested in particular on the following issues.

Time for Filing Returns

The regulations currently provide that the Form 720 generally must be filed by the last day of the first calendar month following the quarter for which it is made. However, in the case of returns related to taxes imposed by chapter 33 (communications and air transportation) and section 4681 (ozone-depleting chemicals), the due date is the last day of the second calendar month

following the quarter for which it is made.

The IRS requests comments on whether there should be one filing date for all Form 720 filers, such as 30 days after the end of the quarter. This would be a simple rule that would apply equally to all taxpayers.

Use of Government Depositories

Background. The regulations currently provide that excise taxes must be deposited on a semimonthly basis. Generally, taxes must be deposited by the 9th day of the semimonthly period following the semimonthly period for which the deposit is made (the 9-day rule). There are, however, exceptions to this rule. Taxes on ozone-depleting chemicals must be deposited by the end of the second semimonthly period following the semimonthly period for which the deposit is made (the 30-day rule). In addition, for taxes imposed by section 4081 (gasoline, diesel fuel, and kerosene), communications taxes, and air transportation taxes, taxpayers may choose a deposit rule other than the 9-day rule. For section 4081 taxes, section 518 of the Highway Revenue Act of 1982 provides that a qualified person may deposit by the 14th day of the semimonthly period following the semimonthly period for which it is made if the deposit is made by electronic funds transfer (the 14-day rule). For communications and air transportation taxes, if a person computes the amount of tax to be reported and deposited on the basis of amounts considered as collected, the person may deposit the taxes considered as collected during a semimonthly period by the third banking day after the seventh day of the semimonthly period (the alternative method).

The regulations also provide that the amount of the deposit for a semimonthly period must equal the amount of net tax liability incurred during that period unless either the look-back quarter safe harbor rule or the current liability safe harbor rule applies. In general, the look-back quarter safe harbor rule is met if the deposits for each semimonthly period in the quarter are at least 1/6 of the net liability reported for that tax in the second calendar quarter preceding the current quarter, and the current liability safe harbor rule is met if the deposit for each semimonthly period is at least 95 percent of the net tax liability for the semimonthly period. Safe harbor rules apply separately to each class

of tax. Each semimonthly deposit must be timely made at an authorized Government depository. Also, the amount of any underpayment must be paid by the due date of the return, without extension. A failure to meet all the deposit requirements of a safe harbor rule for any semimonthly period eliminates the availability of that safe harbor for the entire quarter.

As the above description of current regulations illustrates, the deposit rules are quite complicated, and taxpayers have experienced difficulty in complying with them. In addition, under existing safe harbor rules, penalties for failure to deposit may be imposed for all semimonthly periods in a quarter if a taxpayer fails to deposit timely and in the correct amount during any semimonthly period in that quarter.

Request for Comments. With respect to the deposit rules, the IRS specifically requests comments on the following issues:

1. Whether there should be a single deposit date for all excise taxes, such as 14 days after the end of the semimonthly period. (The IRS believes it would be appropriate to retain the alternative method allowing communications and air transportation tax collectors to file returns and make deposits based on amounts billed or tickets sold.)

2. Whether a taxpayer should have to deposit at least 95 percent of tax liability incurred for the corresponding semimonthly period (in lieu of the current requirement of 100 percent with safe harbor rules).

3. Whether the amount required to be deposited for a quarter should be computed without reduction for the amounts of any claims made on Schedule C of Form 720 for that quarter.

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